

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC 2002-000089

12/17/2002

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
P. M. Espinoza
Deputy

FILED: _____

STATE OF ARIZONA

CATHERINE E LEISCH

v.

TOMMY J HARRIS

GEORGE G GAZIANO

REMAND DESK CR-CCC
SOUTH MESA-GILBERT JUSTICE
COURT

MINUTE ENTRY

SOUTHMESA/GILBERT JUSTICE COURT

Cit. No. #TR00-3519CR

Charge: CT 1. DUI

CT 2. BAC .10 OR MORE WITHIN 2 HRS OF DRIVING

DOB: 03/21/58

DOC: 05/28/99

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This case has been under advisement without oral argument since its assignment on November 18, 2002. This Court has considered and reviewed the record of the proceedings from the South Mesa/Gilbert Justice Court, the exhibits made of record, and the Memoranda submitted by counsel.

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The only issue presented for review in this case is whether the State can designate as a “victim” in a DUI prosecution, the driver of a vehicle involved in a collision with the Appellant, Tommy Harris. Appropriately, Appellant concedes that the case of Romley v. Superior Court¹ is controlling authority. In that case, the Arizona Court of Appeals granted a Petition for Special Action after the trial judge had found that Driving While Under the Influence of Intoxicating Liquor is a victimless crime. The Arizona Court of Appeals stated:

Munjas falls within the plain language defining “victim” as “a person against whom the criminal offense [was] committed.” Although (Defendant) Cunningham only damaged Munjas’ car rather than Munjas personally, the crime of DUI was none the less committed against him. Similarly, the definition “criminal offense” as conduct giving rise to a felony or misdemeanor involving “the threat of physical injury” requires us to conclude that (Defendant) Cunningham’s action constituted a criminal offense threatening Munjas with physical injury. Common sense demands the same conclusion. ... Munjas is a victim as defined by the Victim’s Bill of Rights and the Victim’s Rights Implementation Act and as a victim, may refuse a pretrial defense interview. We find the trial court’s order in error and reverse it.²

Appellant also contends that the State gave no notice that it would designate a victim in this case. There is no requirement that the State designate a victim within a certain period of time. This Court finds no merit to Appellant’s claims.

IT IS THEREFORE ORDERED affirming the judgments of guilt and sentences imposed by the South Mesa/Gilbert Justice Court.

IT IS FURTHER ORDERED remanding this case back to the South Mesa/Gilbert Justice Court for all further and future proceedings in this case.

¹ 184 Ariz. 409, 909 P.2d 476 (1996).

² Id., 184 Ariz. at 411, 909 P.2d at 478.